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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-fourth session

SUMMARY RECORD OF THE 60th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 15 November 2000, at 10 a.m.

Chairperson: Ms. BONOAN-DANDAN

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Third periodic report of Portugal (E/1994/104/Add.20; E/C.12/Q/POR/1; (written replies to the list of issues prepared by the Government of Portugal) HR/CESCR/NONE/2000/2; HRI/CORE/1/Add.20) (continued)

Articles 6 to 10 of the Covenant (continued)

1. The CHAIRPERSON invited the Portuguese delegation to reply to questions left pending from the preceding meeting.

2. Ms. TAVARES DA SILVA (Portugal), replying to a question on the wage gap between men and women, explained that women were at a disadvantage in the sense that, on average, they earned less than men; however, that did not mean that they were paid less than men for the same work. The average salary for women was 77 per cent of that for men, since they tended to hold lower-ranking posts. That did not depend on their qualifications - on the contrary, there were more girls in further education - but, rather, on cultural factors. The situation was more or less the same throughout Europe.

3. Mr. KOUZNETZOV asked whether men and women earned the same salary for the same work.

4. Ms. TAVARES DA SILVA (Portugal) said that, as a rule, men and women received the same salary for the same work and that any infringement of that rule was against the law. If a woman was paid less than a man for the same work, she could lodge a complaint with the Commission for Equality in Work and Employment.

5. Mr. DOS SANTOS PAIS (Portugal), replying to a question on child labour, said that recently 128 companies which had been employing children had been struck off the suppliers' list for national and local public bodies. Such a decision, based on the labour inspectorate's findings, was an example of measures taken to eliminate child labour.

6. As far as efforts to combat violence against children were concerned, the report mentioned several relevant institutions or entities. Paragraph 53 dealt with the Office of the High Commissioner for the Promotion of Equality and the Family, whose duties were to coordinate action by the competent public bodies in consultation with non-governmental organizations and to formulate and implement policies relating to children. It was responsible for and coordinated all activities concerning children at risk.

7. Paragraphs 69 to 72 of the report provided information on the Family and Children's Support Project, set up under Council of Ministers resolution 30/92. The project had been devised as a result of recognition that removing an ill-treated child from its family was in most

cases not a good solution. The priority aims of the project were to detect cases of abuse, to diagnose family problems responsible for such ill-treatment and to take the necessary steps to bring an end to any situation which put children at risk by helping families overcome such problems. The Family and Children's Support Project also covered children who were the victims of physical or psychological violence cared for in health centres or hospitals.

8. Another mechanism for protecting children and the family was the umbrella programme, "What it means to be a child" (paras. 346-352 of the report), of special projects for children at risk or with disabilities. The programme was funded by the Instant Lottery, which contributed 30 per cent of its profits. In September 1997, 88 projects under the programme had been approved, covering approximately 13,818 children and 8,267 families. Under the recently amended Penal Code, ill-treatment of children within the family was a punishable offence, against which the Public Prosecutor's Department could take action ex officio without a complaint from the victim. There was a general obligation to report cases of abuse, above all for health-care workers. Any person who noticed signs of ill-treatment was obliged to inform the Public Prosecutor's Department or another competent body. As to the problem of street children, she referred to the action taken by the Child Support Institute and the National Confederation for Action on Child Labour.

9. The committees for the protection of minors set up in 1991 were now to be found throughout the country. They were composed of medical staff, social workers, representatives of the local authorities and law enforcement officials and were designed to provide a community response, prior to court proceedings, to the difficulties experienced by children at risk who were the victims of violence. There were several helplines available for children. A unit in the Attorney-General's Department had been set up to coordinate the activities of the Public Prosecutor's Department relating to the protection of children. As mentioned earlier, criminal proceedings were instituted when a case of abuse was reported to the authorities. As the Committee members had stressed, it was difficult to know exactly what the scale of the problem actually was. A nationwide study carried out in 1985 estimated that approximately 20,000 children suffered ill-treatment. The authorities had not received any other accurate information since then, apart from a recent report by the Institute of Social Sciences on the various types of ill-treatment, which had been submitted recently to Parliament, but had not yet been made public. According to judicial statistics, between 500 and 600 cases of abuse had been brought before the courts in 1998.

10. Mr. SADI asked whether there had been any cases of criminal action taken against companies which employed children and what the Portuguese Government was doing to combat prostitution.

11. Mr. DOS SANTOS PAIS (Portugal) said that companies were not allowed to hire children under the age of 16. When cases of child labour were reported, the Labour Inspectorate would follow up the matter with the companies concerned. As had been mentioned earlier, 128 companies which employed children had lost their licence to sell goods to public bodies. He did not have information on companies taken to court for having employed children.

12. There were few child prostitutes. Cases reported were above all of children who worked as tourist guides in Madeira. The local authorities tried to help those children by providing guidance on alternative training or employment. When a case of child prostitution was reported, the Public Prosecutor's Department took action. With regard to prostitution in general, for some time Government policy had been not to punish the prostitutes, but those who benefited from prostitution. The Government helped female prostitutes by providing hostels and training schemes for them.

Articles 11 and 12 of the Covenant

13. The CHAIRPERSON invited the members of the Committee to ask questions on articles 11 and 12 of the Covenant (items Nos. 25 to 30 of the list of issues).

14. Mr. SADI said he understood that there were many car accidents in Portugal. With respect to article 12 of the Covenant, he asked what the authorities were doing to protect the right to life and to health of persons travelling by car. In connection with the Sixth Conference of the Parties to the United Nations Framework Convention on Climate Change in The Hague, he would welcome information on the Portuguese Government's position at that Conference and on the environment in general, since people's health depended to a large extent on how countries protected the environment.

15. Mr. HUNT said he had the impression that the Portuguese authorities did not have a very clear idea of the poverty situation in the country, its scale, geographical distribution and the segments of society affected. Perhaps a comprehensive national study on poverty should be carried out, on the basis of which a coherent policy could be devised to combat the problem.

16. Mr. RIEDEL noted with satisfaction that information on health conditions in Portugal was well presented in the report, although it had been drafted before the Committee had adopted its General Comment No. 14 on the right to the highest attainable standard of health. In the light of that General Comment and, in particular, paragraphs 43 and 44, greater detail could have been provided on some matters. It would have been helpful if the Government had provided more information on how it fulfilled its core obligations, for instance with regard to the right to have access to health facilities, goods and services on a non-discriminatory basis or the obligation to ensure reproductive, maternal and child health care. In order to assess the situation in the country, the Committee required disaggregated and comparative data. Moreover, some of the information contained in the report, as in paragraphs 497 and 498, was far too general, with the result that it was vague. He asked how the national health policy had been implemented since the drafting of the report and with what results.

17. Concerning paragraph 502 of the report, he would like an explanation of the considerable drop in the budget allocated to primary health at a particular time, access to such care being a key element of the right to health. Paragraph 503 of the report referred to existing "disparities in the health situation and in resource distribution". What measures had been taken to remedy that situation? It would be interesting to have annual statistics on existing disparities. Could the delegation say how drug trafficking had evolved since 1998? What were the effects of police efforts to intervene more effectively (para. 28.10 of the written replies)? It had been stated in paragraph 29.5 of the written replies that, for the first time, the Assembly of the Republic had

established and regulated conditions for the public financing of investment projects for equipment to treat drug addicts; what had the results of that measure been? How had statistics on HIV/AIDS sufferers developed?

18. Mrs. JIMENEZ BUTRAGUEÑO, referring to paragraph 25 of General Comment No. 14 on the right to health of elderly persons, urged the authorities to ensure that that population sector was not neglected and, in particular, that it should have full access to primary health care.

19. Mr. DOS SANTOS PAIS (Portugal) said he was distressed that his country was among those with the highest number of road accident casualties in the European Union. Many strategies had been adopted to remedy that state of affairs: better traffic monitoring by radar and police officers, instant withdrawal of driving licences for speeding, higher fines and so on. A system of compulsory regular vehicle inspections had also been put in place. Various awareness campaigns had been launched: the Ministry of the Interior was financing a programme on road accidents which had been aired daily for over a year on public television; a number of press and television campaigns aimed especially at young people had been arranged in order to prevent drunk driving; and road traffic safety courses were held in primary and secondary schools. The current Government was determined to continue such campaigns, even though the results had so far not matched the funds invested.

20. The environment was also one of the priorities of the Government, which actively supported United Nations policy against global warming and was conducting intensive campaigns on the use of industrial waste. Like other European countries, Portugal encouraged the use of public transport and banned traffic in certain towns on peak-pollution days.

21. Ms. BRAS GOMES (Portugal) said that, although Portugal had not yet conducted a poverty survey, the number of poor had been estimated at 2 million. To judge by the geographical distribution of those receiving the minimum guaranteed wage, the regions most affected appeared to be those in the north, followed by the Lisbon region, and more than 50 per cent of poor people were probably women. In any event, further statistics should shortly be available. Portugal had recently launched a framework community support plan for 2000-2006 which had a social development promotion component and was financed by the European Union and 38 per cent by the State. In the context of the European Union, it was also in the process of devising a national plan against social exclusion. Those two projects would certainly serve as useful data sources.

22. Mr. DOS SANTOS PAIS (Portugal) said that the strategy for access to health facilities had only been recently launched and had not yet been evaluated. However, it would be a fait accompli by the time Portugal submitted its next periodic report. Statistics on access to such facilities would then be available and would be included in the report. Moreover, the drop in the share of GNP earmarked for primary health care was not at all alarming. The situation in the sector had improved considerably and the present Government no longer assigned it the same priority as the previous Government had.

23. In 1999, the number of raids and the amounts seized had increased for all drugs except heroin. The number of arrests had been rising sharply for some years and cooperation among police forces had been intensified locally and with EUROPOL, Interpol and foreign police

forces. With regard to prevention, one quarter of the profits from games of chance such as the national lottery had been allocated to financing such measures. Priority was currently being given to guaranteeing all drug addicts who so wished access to health services. The number of places available for specialized care had risen from 34 in 1995 to 1,084 in 2000 and the number of persons hospitalized for detoxification had increased from 1,086 in 1995 to 4,249 in 1999. The number of persons on waiting lists for such treatment had dropped by 75 per cent between 1998 and 2000.

24. Ms. BRAS GOMES (Portugal) reaffirmed that the principle of non-discrimination embodied in the Constitution applied equally to the elderly. In practice, they were generally treated with a great deal of respect, especially in rural areas. The Government had also used the celebration of the International Year of Older Persons (1999) to emphasize that sector's capacity to make a sizeable contribution to the country's social life. The tendency was to draw the attention of NGOs, local governments and social partners in general to the role of the elderly in society. Programmes such as that concerning tourism for the elderly, enabling them to benefit from special conditions to travel out of season, and the spa-cure programme had also been set up.

25. Ms. ALBUQUERQUE (Portugal) said that abortion was punishable under the Penal Code by prison sentences, which were longer if the pregnant woman died or was seriously injured or if the person performed abortions regularly or for pay. However, medical interruption of a pregnancy was authorized in three instances: first, when the life or health of the pregnant woman was at risk; second, where there was a risk of malformation or a severe health problem of the foetus (up to 24 weeks); and, third, if the pregnancy was the result of rape (up to 16 weeks). In 1998, proceedings for abortion had been instituted in six cases. Four persons had been convicted, two of whom had been fined and the two others given suspended prison sentences. The main aim was naturally to prevent unwanted pregnancies, and that was why free access of all persons, whatever their age, to family planning clinics was considered an inalienable right. He was pleased to announce that contraceptives were increasingly used in Portugal.

26. Mr. DOS SANTOS PAIS (Portugal) explained that, since the AIDS epidemic had struck Portugal later than other European countries, his country had not yet succeeded in curbing the spread of the virus. According to statistics provided by the National AIDS Committee, 84 per cent of the cases notified involved men. The worst affected was the 20-49 age group and users of injected drugs were probably the sector most at risk, followed by heterosexuals, bisexuals and then homosexuals. That public health problem was of grave concern to the Portuguese Government, as shown by the many initiatives taken to combat it: free distribution of contraceptives, creation of mobile units distributing syringes at night in areas where injected drugs were most used, the opportunity for such drug users to exchange their dirty syringes for clean ones in pharmacies, and major media awareness campaigns. Public hospitals had also set up special AIDS units, where all patients were treated and terminal cases were cared for. The Ministry of Justice had passed a law authorizing prisoners at the terminal stage of the disease to be released and had established special therapy units in prisons to curtail the spread of AIDS and STDs among prisoners. Information campaigns on those diseases were also conducted in primary and secondary schools.

27. Mr. GRISSA asked whether the Russian mafia previously referred to might not be linked to drug trafficking, prostitution and the traffic in women. If so, that would contribute to the spread of the virus both at home and abroad, since Portugal was a great tourist destination.

28. Mr. WIMER ZAMBRANO pointed out that very few sentences had been handed down for illegal abortions. Was the law penalizing non-therapeutic abortion seldom if ever applied in practice? Did Portugal not envisage legalizing abortion in order to reduce the number of illegal abortions?

29. Mr. SADI said that, in order to combat the AIDS epidemic, many countries imposed screening prior to marriage. Had Portugal considered doing the same? As for abortion, at what age did a foetus acquire the right to life?

30. Mr. DOS SANTOS PAIS (Portugal) explained that reference had been made to the Russian mafia because the police had been encountering that population group more and more. While that new problem was characterized by an increase in the traffic in drugs and prostitution, it was still difficult to link the spread of AIDS to sex tourism, since the disease was particularly rife among injected-drug users. On the matter of compulsory screening for HIV before marriage, the advocates of such a measure, including the National AIDS Committee, had come up against the Portuguese Constitution, which provided for the right to privacy. Persons wishing to be screened were free to do so, but there was no question of compelling anyone.

31. Ms. ALBUQUERQUE (Portugal) said that the right to life was acquired at birth. A foetus, however, was fully protected, since the Penal Code prohibited abortion after a certain period of pregnancy and the medical interruption of a pregnancy was authorized in the three above-mentioned cases. Portugal had put the question of the legalization of abortion to the people in a referendum in 1998 and it had been rejected. However, the broad campaign conducted at the time had shown that there was a need for sex education and awareness programmes to prevent unwanted pregnancies and sex education was now compulsory in schools.

Articles 12 and 15 of the Covenant

32. The CHAIRPERSON invited the members of the Committee to put questions on article 13 on the right to education and article 15 on the right to participate in cultural life.

33. Mr. SINGH (UNESCO), referring to UNESCO's Medium-Term Strategy, which contained a proposal to consider education as the prime common good to which education alone gave access, stressed that leaders should be aware of the great responsibility they had in that field, which could not be left to market forces. The sector should therefore be a priority for a country's development and the exercise of economic, social and cultural rights and that priority must be reflected not only in its domestic policy, but also in its legislation. With the adoption of Decree-Law No. 147/97, Portugal had put in place a legal framework for the development and expansion of the national pre-school education network. That new legal framework must be

welcomed, since it was a single national network that had replaced the old public and private networks. He praised the reforms undertaken by Portugal and, in particular, the structural reform established by the basic law on the educational system. However, he would like to know more about access to higher education institutions in the context of the new structure.

34. Mr. MARCHÁN ROMERO, recalling that Portugal had been devoting 0.18 per cent of its GDP to culture in 1995, asked the delegation for updated statistics on the subject so that the Committee could assess progress in that regard. He also wished to know why Portugal had supplied no information on authors' rights, when the State party appeared to have taken those rights into account when it had created the National Copyright Council. He also asked whether Portugal had ratified the international instruments relating to intellectual property rights and he wished to know whether Portugal had concerned itself with so-called related rights, which covered the dissemination and recording of audio programmes. Lastly, what measures had Portugal taken to afford the disabled access to cultural sites?

35. Mr. GRISSA asked the delegation to explain why girls accounted for only 47 per cent of primary school pupils, whereas they should be as numerous as boys, since education was compulsory until age 15. He would also like to know why there were more pupils in secondary than in primary schools (according to the statistics, there were 70,000 more than in primary schools).

36. Mr. THAPALIA said that, according to a number of sources, Portugal's results for education were rather poor: it had the lowest literacy rate in Europe, the school drop-out rate for young people under the age of 15 was high and girls were underrepresented in secondary education. He wondered whether Portugal intended to take steps to improve the situation.

37. Mr. ANTANOVICH said that, although education was compulsory and free up to the age of 15, many children, most of whom were employed by private companies in the north of the country, did not attend school. What was Portugal doing to oblige parents to send their children to school? Was it taking steps to combat child labour, which was strictly prohibited by the European Social Charter? According to paragraph 33.4 of the written replies, persons aged 15 or over originating from Portuguese-speaking countries were entitled to the same educational opportunities as their Portuguese counterparts. What happened to those under the age of 15? Did those provisions also apply to new immigrants who were not African and whose mother tongue was not Portuguese?

38. Mr. SADI asked why education was compulsory and free only up to the age of 15. It was true that the Covenant provided only that free secondary and further education should be established gradually, but 15 was a somewhat arbitrary limit. The spirit of the Covenant called for a developed country such as Portugal to provide free education beyond the age of 15. Similarly, did Portugal intend to take measures to provide free further education progressively? Furthermore, when it compiled its next report, would Portugal take account of the 1999 General Comments on Education?

39. Mr. WIMER ZAMBRANO said that he wished to have information on the Portuguese Government's subsidies allocation policy to private educational institutions.

40. Mr. HUNT said that the Committee needed more detailed information on Portugal's implementation of article 13 of the Covenant and should, in its concluding observations, urge the country to provide it in its fourth periodic report. He hoped that the State party would look again at the Committee's 1999 concluding observations on article 13. The Committee would have liked to have had more information on, for example, teachers' pay, discipline, including corporal punishment, further education fees, i.e. whether they were increasing or decreasing, and curriculum content and the extent to which it conformed to article 13, paragraph 1, of the Covenant. If pre-school education was not free, what policies, programmes and statutory regulations were promoting equal access to pre-school education, especially for vulnerable groups?

41. Mr. DOS SANTOS PAIS (Portugal) said that Portuguese legislation protected all intellectual property rights and that his country had ratified all the relevant international instruments and was therefore on the same footing as the other European countries. Portuguese legislation on intellectual property had been updated in 1998. Compulsory education applied to all sectors of the population, including aliens. Young people were required to attend school until the age of 15 because children began primary school at the age of six and were entitled to nine years' schooling.

42. Mr. CRISTINO JOANA (Portugal) said that the Ministry of Culture had had a budget of around 28 billion escudos in 1995, but it had increased significantly since then. It was estimated that the Ministry's expenditure would reach 46 billion escudos in 2000, an increase far in excess of inflation and the growth of gross domestic product. All the European Union directives on copyright had been incorporated into Portuguese legislation and, most recently, the directive on database protection. The National Copyright Council was a body which advised the Ministry of Culture. Portugal was cooperating closely with the World Intellectual Property Organization. As examples of the action taken by Portugal to promote access of the disabled to culture, he mentioned that Lisbon's National Library had books in Braille and audio cassettes for the visually impaired and that museums had been working hard to redesign their premises to facilitate access by the disabled.

43. Mr. DOS SANTOS PAIS (Portugal) said that a number of recent Council of Ministers resolutions urged all public authorities to promote easy access to culture for the disabled. For example, the information displayed on the public services' web sites must also be available in other forms so that it was accessible to the blind and other disabled persons. Public authorities must ensure that the physically disabled, in particular wheelchair users, could have access to their premises. On television, sign language interpretation enabled the deaf to follow news programmes and an effort was made to subtitle other programmes.

44. Ms. LEMOS DAMIAO (Portugal) said that a preventive sex education scheme was being run in pilot schools. In a few years' time, sex education would be taught more comprehensively as part of civics. The Ministries of Health and Education were conducting an awareness campaign on pregnancy and abortion to inform teenage girls, who were also the beneficiaries of family planning and nutritional advisory services.

45. Pre-school education was free in the public sector. The Ministry of Education was keen to develop pre-school education because it laid the foundations for lifelong learning. Low income families benefited from free education and soft loans. The Ministry of Education gave priority to disadvantaged regions, in particular by providing peripatetic teachers in sparsely populated, remote areas. There was an education and vocational counselling service. Transport, meals and other services were free for children from poor families. Children from low income families were entitled to free books and free school supplies. Scholarships were available for secondary school pupils. A special effort was made to dissuade pupils from dropping out of school. Struggling pupils were given help with their studies and, if necessary, they could follow a curriculum specially designed to suit their needs. University education was not free, but fees were low and the State helped out students from low income backgrounds. Such students could receive grants and support from welfare services. A student counselling service existed in every educational institution. A law adopted in 1999 had set up a loan scheme for students in further education. The Government was striving to integrate disabled students, where possible, into mainstream schooling, where they received the support of specially trained teachers and psychologists. Blind pupils had suitable information technology at their disposal and could borrow books in Braille. The disabled were guaranteed access to further education by the operation of a 1 per cent quota in every educational institution. In addition, adults aged 25 or over could enrol in university courses even if they did not have the formal qualifications normally required, providing that they passed an entrance examination.

46. Mr. DOS SANTOS PAIS (Portugal) said that Portugal would take account of the Committee's General Comments when it prepared its fourth periodic report. Corporal punishment was prohibited. A law on discipline in education had been adopted recently following a broad public debate. It provided for a decentralized system, but there were general guidelines to be followed. Pupils, parents and teachers were all involved in finding a solution to discipline problems.

47. The CHAIRPERSON asked the Portuguese delegation whether it had any further comments.

48. Mr. DOS SANTOS PAIS (Portugal) said that, in future, Portugal would give the Committee more detailed information in accordance with the Committee's General Comments. His Government attached great importance to complying with the rules and recommendations set out by the treaty bodies and, in particular, the Committee on Economic, Social and Cultural Rights.

49. The CHAIRPERSON thanked the Portuguese delegation for its participation, welcomed the constructive dialogue which had taken place with the members of the Committee and declared that the Committee had completed its consideration of Portugal's third periodic report.

The meeting rose at 12.55 p.m.